

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Gentry et al.	Confirmation No.:	6867
Appl No.:	10/589,173	Group Art Unit:	1644
Filed:	May 15, 2007	Examiner:	Michail A. Belyavskyi
For:	STEM CELL POPULATIONS AND METHODS OF USE		

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action dated August 10, 2009, in which the Examiner has required restriction among Group I, namely Claims 1-3, 5, 6, 8-15, 54-57, 59, and 61-68, drawn to cell population of ALDH^{bright} stem cells and a pharmaceutical composition comprising said cells; Group II, namely Claims 16-20, 22, 69-75, and 77, drawn to a method of reconstituting blood tissue in a patient; Group III, namely Claims 24-29, 31, 79-86, and 88, drawn to a method of repairing or regenerating a mesenchymal tissue; Group IV, namely Claims 33-36, 38, 90-95 and 97, drawn to a method of inducing immunological tolerance in a patient; Group V, namely Claims 40-43, 45, 99-104, and 106, drawn to a method of producing neurons or oligodendrocytes in a patient; Group VI, namely Claims 47-50, 52, 108-113, and 115, as drawn to a method of producing cardiomyocytes in a patient; Group VII, namely Claims 117 and 118, as drawn to a method of screening a compound for its ability to promote differentiation, growth, cytotoxicity or apoptosis; and Group VIII, namely Claims 119 and 120, as drawn to a kit comprising a detectable ALDH substrate and antibodies specific to a cell surface marker.

Applicant hereby provisionally elects with traverse to prosecute the claims of Group I (Claims 1-3, 5, 6, 8-15, 54-57, 59, and 61-68) and expressly reserves the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims.

Applicants direct the Examiner's attention to 37 CFR 1.475(b), which states that a national stage application containing claims to different categories of invention will be considered to have unity if the claims are drawn to a product and a process of use of said product. In the instant application, the claims of at least Groups II-VI are drawn to a process of use of the product of

Group I. Thus, Applicants respectfully request that, once the claims of Group I are in condition for allowance, the Examiner reconsider the propriety of the restriction requirement for at least each of Groups II-VI.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/destiny m. davenport/

Destiny M. Davenport
Registration No. 60,360

CUSTOMER No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Raleigh Office (919) 862-2200 Fax Raleigh Office (919) 862-2260	ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON SEPTEMBER 9, 2009
--	--